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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,851	01/30/2004	Yehoshaphat Kasmirsky	P-9480-US1	4135
49443 7590 10/17/2008 Pearl Cohen Zedek Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036				
EXAMINER				
LE, THU NGUYET T				
ART UNIT		PAPER NUMBER		
2162				
MAIL DATE		DELIVERY MODE		
10/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/766,851

**Applicant(s)**

KASIRSKY ET AL.

**Examiner**

THU-NGUYET LE

**Art Unit**

2162

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5, 6, 8-12, 15-29, 34-39 and 43-46 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3, 5-6, 8-12, 15-29, 34-39 and 43-46 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.
2. Applicant's submission filed on 08 May 2007 has been entered. Claims 27, 43 have been amended. Claims 4, 13-14, 30-33, 40-42 have been canceled. Claims 1-3, 5-6, 8-12, 15-29, 34-39, and 43-46 are pending in this Office Action.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1, 9-12, 15-27, 34, 36-38, and 45 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 3, 5-8, 13-15, 17-23, 30-32, and 34-37 of copending application No. 10/451,371.

Although the conflicting claims are not identical, they are not patentably distinct from each other.

See the claim comparison table below:

10/766,851	10/451,371
<p>1. A method for managing data storage comprising:</p> <p><b>receiving a stream of audio or video data</b> related to a communication over a communication network;</p> <p>receiving computer telephony integration (CTI) metadata information associated with the communication;</p> <p><b>automatically analyzing the content of the audio or video data to determine at least one characteristic of the content;</b></p> <p><b>generating metadata associated with the at least one characteristic of the automatically analyzed content;</b></p> <p><b>selecting one of plurality of storage options</b> having different types of accessibility and/or capacity according to said CTI metadata or generated metadata and according to at least one rule; and</p> <p><b>placing the data into said selected storage option.</b></p>	<p>1. A method for managing data storage according to content of input data, comprising:</p> <p><b>receiving a stream of audio or video data</b> as the input data;</p> <p><b>automatically analyzing the content of the audio or video data to determine one or more characteristics of the content;</b></p> <p><b>generate metadata associated with the at least one characteristics of the automatically analyzed content;</b></p> <p>selecting based on at least a portion of the generated metadata whether to store or not store at least a portion of the input data;</p> <p>if selected to store, <b>selecting one of plurality of storage options based at least on a portion of the generated metadata;</b> and</p> <p>8. The method of claim 1, further comprising:</p> <p><b>placing the data into a selected storage option.</b></p>

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify or to omit the additional elements of claims 1, 3, 5-8, 13-15, 17-23, 30-32, and 34-37 of copending application No. 10/451,371 to arrive at the

claims 1, 9-12, 15-27, 34, 36-38, and 45 of the instant application because the person would have realized that the remaining element would perform the same functions as before. "Omission of element and its function in combination is obvious expedient if the remaining elements perform same functions as before." See In re Karlson (CCPA) 136 USPQ 184, decide Jan 16, 1963, Appl. No. 6857, U. S. Court of Customs and Patent Appeals.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3, 5-6, 8-12, 15-29, 34-39 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ignatius et al. (US 6,542,972) in view of Glowny et al. (US 2001/0040942).

***With respect to claim 1***, Ignatius discloses a method for managing data storage comprising:

automatically analyzing the content of data to determine at least one characteristic of the content (fig.3, col.2 lines 34-45, col.5 lines 4-8);

generating metadata associated with the at least one characteristic of the automatically analyzed content (fig.3, col.2 lines 34-45, col.5 lines 4-8);

selecting one of a plurality of storage options having different types of accessibility and/or capacity according to said CTI metadata or generated metadata and according to at least one rule (col.1 lines 65-66, col.2 lines 1-6, 39-45, col.10 lines 21-22, col.9 lines 5-20); and

placing the data into said selected storage option (col.2 lines 39-45, col.10 lines 23-25).

However, Ignatius does not explicitly disclose the other limitations of claim 1.

In the same field of endeavor, Glowny teaches receiving a stream of audio or video data related to a communication over a communication network (para.[0002] lines 3-8);

receiving computer telephony integration (CTI) metadata information associated with the communication (para.[0008] lines 15-18, para.[0032] lines 8-12);  
the data is the audio or video data (para.[0032] lines 8-12);

It would have been obvious to one having ordinary skill in the art at the time the invention was made having the teachings of Glowny and Ignatius before him/her to incorporate the method for recording and storing telephone call information into the a method for managing data storage in order to facilitate monitoring, recording, and playing back complete telephone call (end of para.[0008]). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

**Claim 3** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said data is data which needs formatting (col.7 lines 61-63).

**Claim 5** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein the CTI metadata is received from a CTI server data (col.2 lines 17-24, 39-41).

**Claim 6** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein receiving Computer Relationship Management (CRM) data associated with the communication from a CRM server (para.[0039] lines 8-12).

**Claim 8** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said selected storage option causes deletion of the data (col.7 lines 33-34).

**Claim 9** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said plurality of storage options include storage options having at least two different types of devices (col.1 lines 35-38).

**Claim 10** is rejected for the reasons set forth hereinabove for claim 9 and furthermore Ignatius teaches the method for managing data storage, wherein at least one storage option includes an on-line storage device (col.1 lines 55-58).

**Claim 11** is rejected for the reasons set forth hereinabove for claim 9 and furthermore Ignatius teaches the method for managing data storage, wherein at least one storage option includes an off-line storage device (col.1 lines 55-58).

**Claim 12** is rejected for the reasons set forth hereinabove for claim 9 and furthermore Ignatius teaches the method for managing data storage, wherein at least one storage option includes a near-line storage device (col.1 lines 55-58).

**Claim 15** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein the data is analyzed automatically according to a type of the data (col.2 lines 40-42, col.6 lines 46-47).

**Claim 16** is rejected for the reasons set forth hereinabove for claim 15 and furthermore Ignatius teaches the method for managing data storage, wherein the data includes a plurality of different types of data, and said plurality of different types of data is analyzed concurrently (col.3 lines 25-29).

**Claim 17** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein the data is rendered into a common format before being analyzed automatically (col.7 lines 60-64).

**Claim 18** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein the data is rendered into a common format after being analyzed automatically (col.7 lines 60-61).

**Claim 19** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said at



least one rule includes a time interval for holding the data in said selected storage option (col.3 lines 49-50).

**Claim 20** is rejected for the reasons set forth hereinabove for claim 19 and furthermore Ignatius teaches the method for managing data storage, wherein the data is migrated from a first selected storage option to a second selected storage option after said time interval has elapsed (col.2 lines 30-33, col.7 lines 14-20).

**Claim 21** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said at least one rule is entered manually (col.2 lines 37-38).

**Claim 22** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein said at least one rule is generated automatically (col.3 lines 41-43).

**Claim 23** is rejected for the reasons set forth hereinabove for claim 22 and furthermore Ignatius teaches the method for managing data storage, wherein said at least one rule is generated automatically according to business data (col.3 lines 41-43).

**Claim 24** is rejected for the reasons set forth hereinabove for claim 19 and furthermore Ignatius teaches the method for managing data storage, wherein said at least one rule includes an action to be performed on the data according to an event, wherein said event is related to said at least one characteristic of the data (col.7 lines 14-21, col.2 lines 40-43).

**Claim 25** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, further comprising:

receiving data from an input source, wherein said data includes at least one of coded data, e-mail messages, e-mail attachments, chat messages, other types of messaging system messages, documents transmitted by facsimile and user interface data (col. 7 lines 60-65); and

automatically analyzing the content of the data received from the input source to determine at least one characteristic of the content of the data (col.7 lines 14-21, col.2 lines 40-43).

**Claim 26** is rejected for the reasons set forth hereinabove for claim 1 and furthermore Ignatius teaches the method for managing data storage, wherein feedback from an analysis of the content of the data is used for determining said at least one characteristic (col.2 lines 39-43).

**Claim 44** is rejected for the reasons set forth hereinabove for claim 1. However, Ignatius does not teach the communication is a telephone call between a customer and a member of service center personnel.

In the same field of endeavor, Glowny teaches a method for recording and storing telephone call information, wherein the communication is a telephone call between a customer and a member of service center personnel (para.[0003] lines 8-2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made having the teachings of Glowny and Ignatius before him/her to incorporate the method for recording and storing telephone call information into the a method for managing data storage in order to facilitate monitoring, recording, and playing back complete telephone call (end para.[0008]). One of ordinary skill in the art

would be motivated to make the aforementioned combination with reasonable expectation of success.

**Claims 27-29, 34-39, and 43** are rejected on grounds corresponding to the reasons given above for claims 1, 3, 5-6, 8-12, 15-26 because the claims 27-29, 34-39 and 43 claim the substantial limitations as claims 1, 3, 5-6, 8-12, 15-26.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ignatius et al. (US 6,542,972) in view of Glowny et al. (US 2001/0040942) and further in view of Wilde (US 5,991,753).

**Claim 2** is rejected for the reasons set forth hereinabove for claim 1. However, Ignatius does not disclose placing said data further comprises compression of the data according to access needs or data importance.

In the same field of endeavor, Wilde discloses a method for computer file management, wherein placing said data further comprises compression of the data according to access needs or data importance (col.1 lines 15-18).

It would have been obvious to one having ordinary skill in the art at the time the invention was made having the teachings of Wilde and Ignatius before him/her to incorporate the method for computer file management into the method for managing data storage in order to save significant storage space (col.1 line 17). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

6. Claims 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ignatius et al. (US 6,542,972) in view of Glowny et al. (US 2001/0040942) and further in view of Hall et al. (US 2002/0039408).

**Claims 45-46** are rejected for the reasons set forth hereinabove for claim 1.

However, Ignatius does not disclose the communication is a voice communication and further comprising converting the audio data of the voice communication to textual data. And the communication is a voice communication and further comprising converting the audio data of the voice communication to textual data.

In the same field of endeavor, Hall discloses a method for enabling workers to communicate anonymously with their employers, wherein the communication is a voice communication and further comprising converting the audio data of the voice communication to textual data. And the communication is a voice communication and further comprising converting the audio data of the voice communication to textual data (para.[0019] lines 1-6).

It would have been obvious to one having ordinary skill in the art at the time the invention was made having the teachings of Hall and Ignatius before him/her to incorporate the method for enabling workers to communicate anonymously with their employers into the method for managing data storage to facilitate user in using different kinds of communication means (para.[0019] lines 1-6). One of ordinary skill in the art would be motivated to make the aforementioned combination with reasonable expectation of success.

***Response to Argument***

Applicants' arguments regarding the 103(a) rejection based upon Ignatius and Glowny are not persuasive. The examiner respectfully traverses applicants' arguments.

With respect to applicants' argument that neither Ignatius nor Glowny teaches "automatically analyzing the content of the audio or video data to determine at least one characteristic of the content", the examiner refers applicants to fig.3, col.1 lines 40-45, col.2 lines 34-40, col.3 lines 65-67, col.5 lines 4-8. Ignatius teaches the computer storage system for storing selected data from the data generated by software application, wherein the selected data is examined for particular characteristic and a particular storage policy is selected to match with the particular characteristic of the selected data. Finally, the selected data is stored on one of storage media according to storage policy. The task to determine characteristic of the selected data, storage policy for selected data, and storage location for the selected data is performed by manager module 314. The content of data in claimed limitation is the same as the selected data in Ignatius' reference. Thus, Ignatius discloses automatically analyzing the content of data to determine a characteristic of the content. Ignatius does not disclose the data is audio or video data. However, in the same field of endeavor, Glowny discloses method for storing telephone call information, wherein the content of data is the audio data (para.[0032] lines 8-12).

With respect to applicants' argument that neither Ignatius nor Glowny teaches "generating metadata associated with the at least one characteristic of the automatically analyzed content", the examiner respectfully disagrees. In the applicants' disclosure,

metadata is the same as characteristic of the data (applicant's disclosure: para.[0035] and [0038]). Thus, examining the selected data to determine its particular characteristic in Ignatius' disclosure (col.2 lines 34-40) is the same as generating metadata associated with the at least one characteristic of the automatically analyzed content in claimed limitation.

With respect to applicants' argument that neither Ignatius nor Glowny teaches "selecting one of a plurality of storage options", the examiner respectfully disagrees and refers applicants to col.2 lines 34-45, col.3 lines 65-67 and col.7 lines 1-44. Ignatius discloses depending on characteristic of the selected data and the storage policy that matches to its characteristic, the selected data is stored on one of storage media (a first storage medium, a second storage medium, or any  $n^{\text{th}}$  storage medium) and in different storage sequence (migrated into different storage media during a period of time). Thus, Ignatius discloses the recited limitation.

With respect to applicants' argument that characteristic of the selected data is not the characteristic of the content data. The examiner respectfully disagrees and refers applicant to fig7, col.2 lines 1-5. Ignatius discloses characteristic of the selected data includes file type. The file type is an attribute of content data. Thus, the characteristic of the selected data is the same as the characteristic of the content data.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to THU-NGUYET LE whose telephone number is (571)270-1093. The examiner can normally be reached on 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 9, 2008  
/Thu-Nguyet Le/  
Examiner, Art Unit 2162

/K. B. P./  
/John Breene/  
Supervisory Patent Examiner, Art Unit 2162